

**STATE OF CALIFORNIA
CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION
MARKS-ROOS LOCAL BOND POOL PARTICIPANTS
REPORTING GUIDELINES**

Updated July 1999

The California Debt and Investment Advisory Commission is providing the following guidelines to implement the requirements of Government Code Section 6599.1 of the Government Code, which is part of the Marks-Roos Local Bond Pooling Act of 1985, as amended (Sections 6584 et seq.).

All issuers selling Marks-Roos bonds after January 1, 1996 are required to report fiscal information on a *Yearly Fiscal Status Report*. Issuers are required to file a *Yearly Fiscal Status Report* if they have sold bonds before June 30th of the current year and each year thereafter. Issuers who sell bonds **after** June 30th must file a *Yearly Fiscal Status Report* the following year and each year thereafter. All Marks-Roos Local Bond Pool issuers (both authority and local obligors) are required to report any draws on reserve or defaults as they occur subsequent to issuance regardless of the year in which the bonds were sold.

For purposes of implementing this law, the following are subject to the reporting requirements:

- (1) *The Authority*. The Authority is the joint powers agency (JPA) issuing bonds under the Marks-Roos Local Bond Pooling Act of 1985 for the purpose of acquiring local obligations or making loans to local obligors. (See Government Code Section 6584, et seq.). The JPA is usually identified as a Financing Authority (FA), Public Financing Authority (PFA) or Public Facilities Financing Authority (PFFA) and is referred to herein as the *Authority*. An Authority is subject to the *Yearly Fiscal Status* reporting requirements if the proceeds of its bond issue(s) purchase **two or more** local obligations (LOB) or makes two or more loans to local obligors. An Authority that provides financing for an individual project is not subject to the *Yearly Fiscal Status* reporting requirements, but is subject to the draw on reserve or default reporting requirements.
- (2) *The Local Obligor*. Local obligors (LOB) issuers are those agencies which issue bonds that are purchased with the proceeds of an Authority bond issue or which receive loans from an Authority bond issue. Each LOB receiving funds from any Authority is subject to the *Yearly Fiscal Status* reporting requirements of the law. All LOBs are subject to the draw on reserve or default reporting requirements.

STATE LAW

The Marks-Roos Yearly Fiscal Status Report

- Section 6599.1 (b) of the Government Code states beginning January 1, 1996, and each year thereafter the sale of any bonds by the authority for the purpose of acquiring local obligations (LOB), the legislative body shall, not later than October 30th of each year until the final maturity of the bonds, supply the following information to the Commission:
 - (1) The principal amount of the bonds outstanding, both authority bonds and LOBs acquired or loaned with the proceeds of authority bonds.
 - (2) The balance in the reserve fund.
 - (3) The costs of issuance, including any ongoing fees.
 - (4) The total amount of administrative fees collected.
 - (5) The amount of administrative fees charged to each local obligor.
 - (6) The interest earnings and terms of all guaranteed investment contracts
 - (7) Commissions and fees paid on guaranteed investment contracts.
 - (8) The delinquency rates on all local obligations.
 - (9) The balance in capitalized interest accounts.

The Marks-Roos Draw on Reserve or Default Report

- Section 6599.1 (c) of the Government Code requires that all agencies either issuing Marks-Roos bonds or agencies whose issues are purchased with the proceeds of a Marks-Roos bond issue, regardless of when sold, notify the Commission by mail, postage prepaid, within 10 days of any of the following events
 - (1) The local agency or its trustee fails to pay principal and interest due on any scheduled payment date.
 - (2) Funds are withdrawn from a reserve fund to pay principal and interest on the bonds issued by the authority or on any bonds acquired by the authority.
- Section 6599.1 (d) of the Government Code provides that the legislative body and CDIAC are immune from liability for inadvertent errors in reporting under Section 6599.1.

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GENERAL GUIDELINES

All issuers (Authority and LOB Issuers) selling bonds after January 1, 1996, must file *Yearly Fiscal Status* reports with the Commission. Only Authority bonds that provide funds to acquire two or more LOBs or fund two or more loans are subject to this reporting requirement. The Local Obligation bonds purchased by an Authority or obligors receiving loans from an Authority are also subject to the reporting requirements.

General Terminology:

Date of Bond Issuance is the date the bond purchase agreement is signed on a negotiated financing or the date the bid was accepted on a competitive bid. For example, if bonds were authorized before January 1, 1996, and a bond purchase contract was signed in February 1996, the reporting must be made. However, if a bond purchase contract was signed in 1995, but the bonds are not closed until 1996, no report is required.

Bonds shall mean any evidence of debt including revenue bonds, limited tax obligation bonds, special assessment bonds, certificates of participation, tax increment bond, general obligation bonds and bond anticipation notes.

MARKS-ROOS AUTHORITY YEARLY FISCAL STATUS REPORT

An Authority will receive a *Yearly Fiscal Status Report* from the Commission on or about August 1st of each year. This form will be sent to the agency annually and is to be returned to the Commission by October 30th of each year until the reportable bonds are retired. Issuers selling bonds after June 30th of each year will not be required to file a *Yearly Fiscal Status Report* for that year, but will be required to file a *Yearly Fiscal Status Report* the following year and each year thereafter, until the bonds are retired. The Authority shall complete Sections I, II, III and IV of *Marks-Roos Yearly Fiscal Status Report Form for Authority Issue*.

An Authority selling an issue structured as Senior/Subordinate series bonds will be required to file a *Yearly Fiscal Status Report* for each series.

General Instructions for Completing the Marks-Roos Yearly Fiscal Status Report for Authority Issue:

- Report all fund balances as of **June 30th** of each year.
- Section I-E *Reserve Fund*: The minimum balance of the Reserve Fund as required in the bond indenture should be reported
- Section I-F *Total Issuance Costs*: In the initial report, the total cost of issuance for the bond issue (including underwriter's discount, bond counsel and financial advisor fees, printing, insurance and ratings) paid from the bond proceeds. These costs need only be reported on the first filing date, and this item left blank in subsequent reports.
- Sections II-A, B, C The *Principal Amount of the Bonds Outstanding* and the *fund balances* for the Bond Reserve Fund and the Capitalized Interest Fund should be reported as of **June 30th**.
- Sections III-A, 1 & 2 *Fees for Professional Services*: Report annual fees paid for ongoing professional services in connection with the bond issue. This may include financial advisory fees, consulting fees and administration fees. Investment contract fees are covered in a separate item below.
- Sections III-B, 1, 2, & 3 *Local Obligation Borrower*: List each LOB issuer and the type of obligation, i.e., purchase of bonds (BP), or loan of proceeds (L)
- Section III-B, 4 *Administration Fees*: Report the yearly administration fees charged against local obligation (LOB) purchased from the bond issue proceeds or charged to each local obligor receiving a loan. Total the amount of administration fees collected.
- Sections III-C, 1, 2 & 3 *Investment Contracts*: State the terms of any guaranteed investment contract (may include the length of maturity, access to principal, collateralization requirements, downgrade provisions and credit rating); the total commission or fees paid for the contract; and, the yearly interest earnings for the contract.

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MARKS-ROOS LOCAL OBLIGOR YEARLY FISCAL STATUS REPORT

Each local obligor will receive a *Yearly Fiscal Status Report* from the Commission on or about August 1st of each year. This form will be sent to the agency annually and is to be returned to the Commission by October 30th of each year until the bonds are retired or the loan repaid. Local obligors selling bonds after June 30th of each year will not be required to file a *Yearly Fiscal Status Report for Local Obligation Issue* for that year, but will be required to file a *Yearly Fiscal Status Report* thereafter. The local obligor *Yearly Fiscal Status Report* may be filed in conjunction with the Authority's *Yearly Fiscal Status Report* or separately. Local obligors who receive loans from the proceeds of Authority bonds are required to file the *Yearly Fiscal Status Report for Loan Obligations* for those loans.

Mello-Roos Community Facilities District LOBs which are subject to the ***Mello-Roos*** *Yearly Fiscal Status* reporting requirement, should check the box at the top of the *Marks-Roos Yearly Fiscal Status Report* form indicating that fact. Yearly fiscal status information received from the *Mello-Roos Yearly Fiscal Status Report* will be used to compile the required information for the *Marks-Roos Yearly Fiscal Status Report*. To ensure that the issue may be identified properly, please complete Sections I-A, B, C, D, G.

General Instructions for Completion of the Marks-Roos Yearly Fiscal Status Report for Local Obligation Issue:

- Each local obligor (except those subject to the *Mello-Roos* Fiscal Status reporting requirements) shall complete Sections I, II, III and IV of the *Marks-Roos Yearly Fiscal Status Report*.
- Local obligors should report all fund balance as of **June 30th** of each year.
- Section I-E *Reserve Fund*: Report the minimum balance of the Reserve Fund (if any) as required in the bond document for this issue. If there is no separate Reserve Fund for the local obligation issue, state the percentage of the Authority's Reserve Fund that is the responsibility of the local obligor.
- Sections I-F, G *Authority Bond*: Indicate the issuer and sale date of the Authority bond(s) that provides funds for the purchase of the local obligation. A local obligor that receives funds from an Authority's Senior/Subordinate bond issues should note both issues, but should file only one *Yearly Fiscal Status* report.
- Sections II-A, B, C *Fund Balances*: The *Principal Amount of Bonds Outstanding* and the fund balances for the *Bond Reserve Fund* (if any) and the *Capitalized Interest Fund* should be reported.
- Sections III-A, B *Delinquency Rate*: Indicate the delinquency rate for taxes and assessments supporting the local obligations. This should be reported as the percentage of the total applicable tax increment, special tax, or benefit assessment installment due for the year. Indicate the tax collection date and note if the district is covered by a county Teeter Plan.

MARKS-ROOS YEARLY FISCAL STATUS REPORT FOR LOAN OBLIGATIONS

General Instructions for Completion of the Marks-Roos Yearly Fiscal Status Report for Loan Obligations

- Local obligors shall complete Sections I, II, & III of the *Yearly Fiscal Status for Loan Obligations* form if they received a loan from an Authority.
- Section I *General Information*: List the name of the agency receiving the loan, the *Original Principal Amount* received and the *Date of the Loan*; report the *Name of the Authority*, the *Title of the Authority's Bond Issue*, and the *Date the Authority Bond Issue* was sold.
- Section II *Loan Status*: Report the *Principal Amount of the Loan Outstanding*. If the loan is being repaid with tax funds i.e., tax increment, note the delinquency rate for the tax. Indicate the tax collection date and note if the agency is covered by the county's Teeter Plan.

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DRAW ON RESERVE OR DEFAULT REPORT

All Authorities and local obligors that issue bonds or receive loans, **regardless of when sold**, must report. The report shall consist of a letter sent to the Commission within 10 days of the event.

A *Draw on the Reserve Fund* is defined as any withdrawal of funds that decreases the Reserve Fund below the *Minimum Reserve Fund Requirement* as described in the official bond documents. Any withdrawal of funds from the Reserve Fund to make principal and/or interest payments that does not decrease the Fund below the *Minimum Reserve Fund Requirement* need not be reported.

A *Default* is defined as non-payment or partial payment of principal and/or interest.

The report shall consist of a letter to the Commission stating:

- (1) The Authority's or the Local Obligation's issue name;
- (2) The bond issue title and original date of sale;
- (3) The type of non-payment (draw on reserve fund or default);
- (4) The date the draw on reserve fund or non-payment occurred; and,
- (5) The amount of the draw on reserve fund or non-payment.

The Authority or local obligor may include a statement of explanation containing information pertinent to the default or draw on reserve fund (i.e., how the situation is expected to be addressed or remedied and any foreclosure information).